IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24056 of 2004

Between:

Kilari Eswara Rao S/o Pyditalli,
R/o Iyannapeta, Vizianagaram District

..... PETITIONER

AND

1. The Executive Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad
2. The Regional Manager APSRTC Srikakulam Region, Srikakulam.
3. The Works Manager Zonal Workshop APSRTC., Vizianagaram
4. The Asst. Mechanical Engineer (TRS) Zonal Workshop APSRTC. Vizianagaram Vizianagaram

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or Writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the action of the respondents in reinstating the petitioner in the post of shramik vide proceedings NO. E4/785(2)/2002-ZWS/VZM dt 19-4-2004 including the proceedings No. E4/785(2)/2002-ZWS/VZM dated 6-11-2004 issued by the Works Manager, Zonal Workshop Vizianagaram as illegal and arbitrary; and consequently direct the respondents to reinstate the petitioner into service as tea Maker with all consequential benefits.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent Nos.1 to 4: KUM.B.G.UMA DEVI

The Court at the admission stage made the following O R D E R:

This writ petition is filed declaring the action of the respondents in reinstating the petitioner in the post of Shramik vide proceedings dated 19.04.2004 as illegal and arbitrary and consequently direct the respondents to reinstate the petitioner into service as Tea Maker with all consequential benefits.

The case of the petitioner is that he joined as Tea Maker on casual basis in the year 1984. After undergoing selection process, the Works Manager, Zonal Workshop, Vizianagaram has accorded sanction to confirm the petitioner in the post of Tea Maker and accordingly, his services were confirmed in the post of Tea Maker vide proceedings dated 20.07.1996. While so, the petitioner was served with a charge sheet dated 03.12.1999 alleging certain irregularities. After conducting enquiry, the disciplinary authority vide order dated 21.10.2000 removed the petitioner from service. Aggrieved by the order of removal, the petitioner raised an I.D. No. 214 of 2001 before the Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Tribunal, by its award dated 03.12.2003, directed the respondent-Corporation to reinstate the petitioner into service with continuity of service but without back wages. Pursuant to the award, the petitioner made representation to the respondent-Corporation to reinstate him into service. The respondent-Corporation vide order dated 19.04.2004 ordered to reinstate the petitioner with continuity of service but without back wages as Shramik under Reg. 5A of APSRTC Employees (Service) Regulations, 1964 (for short 'Regulations'). The grievance of the petitioner is that the respondent-Corporation instead of appointing him as Tea Maker, issued proceedings dated 19.04.2004 directing to reinstate him as Shramik. Hence this writ petition.

Respondent-Corporation filed the counter affidavit admitting the removal of the petitioner after conducting enquiry. It is further stated that in pursuance of the award dated 03.12.2003, passed by the Tribunal, the petitioner was reinstated into service and posted as Shramik since the category of Tea Maker and Shramik is one and the same and that his services can be utilized in any suitable post as per Clause 5(A) of the Regulations.

Learned counsel for the petitioner contended that when the petitioner was confirmed in the post of Tea Maker, the respondent-Corporation ought to have appointed him in the same post instead of Shramik as the post of Tea Maker and Shramik are different. Therefore, the impugned proceedings are unsustainable and is liable to be set aside.

On the other hand, learned standing counsel appearing for the respondent-Corporation contended that as per Reg.5A of the Regulations, the services of the petitioner can be utilized in any suitable post. He further contended that since the category of Tea Maker and Shramik is one and the same, the pay particulars and other service benefits could not effected in any way and hence, the order under challenge does not suffer from any legal infirmities warranting interference of this Court.

The factual matrix is not in dispute. Though the petitioner's services were confirmed as Tea Maker, the Deputy Chief Personnel Manager, Vizianagaram, through impugned proceedings dated 19.04.2004, ordered to reinstate the petitioner into service as Shramik as per Reg. 5A of the Regulations. The service rules governing the service conditions of the petitioner have not been filed to show that Shramik and Tea Maker come under the same category. As per Reg. 5A of the Regulations, the services of the petitioner can be utilized in any suitable post and as the services of the petitioner were confirmed as Tea Maker, the respondent-Corporation ought to have appointed the petitioner as Tea Maker and then posted to any other suitable post as per the regulations. Reinstating the petitioner into service as Shramik is contrary to the award passed by the Tribunal and, therefore, the impugned proceedings are not in accordance with the directions given by the Labour Court and they are liable to be set aside. The impugned proceedings dated 19.04.20004 are set aside directing the Deputy Chief Personnel Manager,

Vizianagaram to appoint the petitioner as Tea Maker.

Accordingly, the writ petition is allowed. However, this order will not preclude the respondent-Corporation in taking appropriate decision under Reg. 5A of the Regulations.

_____

K.C. BHANU, J

Dt.14.03.2005

Usd

To

1. The Executive Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad
2. The Regional Manager APSRTC Srikakulam Region, Srikakulam.
3. The Works Manager Zonal Workshop APSRTC., Vizianagaram
4. The Asst. Mechanical Engineer (TRS) Zonal Workshop APSRTC. Vizianagaram Vizianagaram
5. Two CD copies.